

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RANDY PEREZ,

Plaintiff,

v.

CERVANTES,

Defendant.

Case No. 1:22-cv-00390-BAM (PC)

**ORDER GRANTING DEFENDANT'S
MOTION TO MODIFY THE DISCOVERY
AND SCHEDULING ORDER**

(ECF No. 41)

Dispositive Motion Deadline: April 26, 2024

Plaintiff Randy Perez ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Cervantes for excessive force in violation of the Eighth Amendment. All parties have consented to United States Magistrate Judge jurisdiction. (ECF No. 40.)

The Court issued a discovery and scheduling order on March 20, 2023. (ECF No. 34.) That order set the deadline for filing all dispositive motions (other than a motion for summary judgment for failure to exhaust) for January 29, 2024. (*Id.*)

Currently before the Court is Defendant's January 26, 2024 motion to modify the discovery and scheduling order to extend the deadline to file a dispositive motion by 92 days, up to and including April 26, 2024. (ECF No. 41.)

In support of the motion, defense counsel declares that, due to defense counsel's schedule and workload, the extension of time is necessary to obtain and organize evidence and prepare and

1 file a motion for summary judgment. (*Id.*) Defense counsel has worked diligently during this
2 case, including deposing Plaintiff and conducting a site inspection and multiple interviews with
3 Defendant, and has begun to develop a basis for the motion for summary judgment. Defense
4 counsel has also worked extensively on several cases throughout the month of December, and has
5 worked extensively on a case throughout January in preparation for a trial beginning on February
6 6, 2024. (*Id.*)

7 Plaintiff has not yet had an opportunity to file a response, but the Court finds a response is
8 unnecessary. The motion is deemed submitted. Local Rule 230(l).

9 Having considered the request, the Court finds good cause to grant the requested
10 extension of the dispositive motion deadline. Fed. R. Civ. P. 16(b)(4). The Court finds that
11 Plaintiff will not be prejudiced by the extension granted here. No other deadlines are extended by
12 this order.

13 Accordingly, IT IS HEREBY ORDERED as follows:

- 14 1. Defendant's motion to modify the discovery and scheduling order to extend the
15 dispositive motion deadline, (ECF No. 41), is GRANTED; and
- 16 2. The deadline for filing all dispositive motions (other than a motion for summary
17 judgment for failure to exhaust) is extended from January 29, 2024 to **April 26, 2024**.

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19 IT IS SO ORDERED.

20 Dated: January 29, 2024

21 /s/ Barbara A. McAuliffe
22 UNITED STATES MAGISTRATE JUDGE
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